

EXHIBIT A

IN THE SUPERIOR COURT OF CHEROKEE COUNTY**STATE OF GEORGIA**

GARY ENGEL)

Plaintiff,)

v.)

RESURGENT CAPITAL SERVICES, L.P.)

Defendant.)

CIVIL ACTION FILE
NO. 23CVE2091**COMPLAINT FOR DAMAGES**

Plaintiff Gary Engel (hereinafter "Plaintiff"), sues Defendant, Resurgent Capital Services, L.P. (hereinafter "Defendant") and for his Complaint alleges:

SUMMARY OF CASE

1.

This is a complaint for damages arising out of Defendant's violations of the federal Fair Debt Collection Practices Act and the Georgia Fair Business Practices Act.

PARTIES

2.

Plaintiff is a resident of Cherokee County, Georgia.

3.

Defendant is a Delaware limited partnership, with an office in Greenville, South Carolina and doing business in Cherokee County, Georgia. Defendant may be served by and through its registered agent for service of process in South Carolina, to wit: Corporation Service Company, 508 Meeting Street, West Columbia, South Carolina 29169.

JURISDICTION

4.

Defendant transacts business within the State of Georgia and the county of Cherokee. The Defendant caused injury to the Plaintiff within the State of Georgia and in the county of Cherokee, by way of its debt collection activities.

5.

Jurisdiction is proper under O.C.G.A. §9-10-91 because a substantial part of the events or omissions on which the claim is based occurred in Georgia.

VENUE

6.

Venue is proper in this Court pursuant to Code Section 9-10-93 as a substantial part of the transactions between the parties occurred in this County.

GENERAL ALLEGATIONS

7.

On October 10, 2023, Plaintiff contacted Defendant via telephone in reference to an alleged debt allegedly owed by Plaintiff to CACH, LLC, as the alleged assignee of Fleet Bank (the “alleged debt”).

8.

Plaintiff had previously learned from a third-party that Defendant was servicing the alleged debt for collection purposes.

9.

When Plaintiff contacted Defendant on October 10, 2023, to inquire about the alleged debt, Defendant provided him with an account number and discussed the alleged debt with him, also providing him with an alleged “settlement amount”. Plaintiff was not provided any information by Defendant as to the name of the entity that is the true owner of the alleged debt. Nor did Defendant ask Plaintiff to provide his mailing address or any other current contact information.

10.

Thereafter, Plaintiff did not receive a debt validation notice from Defendant.

COUNT I

FAIR DEBT COLLECTION PRACTICES ACT

11.

Plaintiff re-alleges and incorporates by reference hereto the preceding paragraphs of Plaintiff’s Complaint for Damages as if fully set forth herein.

12.

Plaintiff brings this claim pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq., (hereinafter the “Act”) seeking statutory damages, actual damages and attorney’s fees against the Plaintiff.

13.

Plaintiff is a “consumer” as contemplated by §1692a(3) of the Act.

14.

Defendant is transacting business in Cherokee County, Georgia.

15.

Defendant is a “debt collector” within the meaning of §1692a(6) of the Act, and at all times material to this proceeding was engaged in the collection of consumer debt as regulated by the Act.

16.

Defendant violated § 15 USC 1692g of the Act by failing to provide a validation notice to Plaintiff at Plaintiff’s home address which Plaintiff either had or could have obtained from Plaintiff on October 10, 2023.

17.

As a result of Defendant’s violations of the Act, Plaintiff has suffered concrete injury and actual damages.

18.

Therefore, for the above and any other violations of the Act as may be proven at trial, Defendant is liable to Plaintiff for statutory damages as prescribed by §1692k(a)(2)(A), actual damages pursuant to §1692k(a)(1) in an amount to be determined at trial, and reasonable attorneys’ fees and costs pursuant to §1692k(a)(3).

COUNT II

GEORGIA FAIR BUSINESS PRACTICES ACT

19.

Plaintiff incorporates by reference hereto the preceding paragraphs of Plaintiff's Complaint for Damages as if fully set forth herein.

20.

The purpose of the Fair Business Practices Act (hereinafter "FBPA") "shall be to protect consumers and legitimate business enterprises from unfair or deceptive practices in the conduct of any trade or commerce in part or wholly in the state. It is the intent of the General Assembly that such practices be swiftly stopped, and this part shall be liberally construed and applied to promote its underlying purposes and policies." O.C.G.A. § 10-1-391(a).

21.

Further, O.C.G.A. § 10-1-391(b), states as follows: "It is the intent of the General Assembly that this part be interpreted and construed consistently with interpretations given by the Federal Trade Commission in the federal courts pursuant to Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. Section 45 (a)(1), as from time to time amended."

22.

The court must interpret and construe the FBPA consistently with interpretations of the Federal Trade Commission Act (hereinafter "FTC Act").

23.

The FTC Act prohibits "unfair and deceptive acts or practices in or affecting commerce". 15 U.S.C. § 45(a)(1).

24.

In Georgia, a violation of the Federal Trade Commission Act, 15 U.S.C. §45, may form the basis for a violation of the FBPA. See *1st Nationwide Collection Agency, Inc. v. Eileen Werner*, 288 Ga. App. 457, 459 (2007).

25.

Georgia appellate court decisions have held that the FBPA governs debt collection conduct and practices in the State of Georgia.

26.

The conduct outlined and set forth hereinabove, including Defendant's violations of the FDCPA as set forth, also constitute violations of the FBPA and are unfair or deceptive acts or practices in trade or commerce as set forth in O.C.G.A. §10-1-393(a).

27.

Plaintiff has suffered concrete harm and injury as a result of Defendant's violations of the FBPA. Defendant is therefore liable to Plaintiff for actual damages in an amount to be determined at trial, reasonable attorneys' fees in an amount to be determined at trial, as well as treble and exemplary damages for Defendant's intentional conduct.

COUNT III

ATTORNEYS' FEES AND LEGAL EXPENSES

28.

Plaintiff re-alleges and incorporates herein by reference thereto the preceding paragraphs of the within and foregoing Complaint for Damages.

29.

Defendant has acted in bad faith and caused Plaintiff unnecessary trouble and expense so as to entitle plaintiff to recover litigation expenses, including reasonable attorneys' fees, pursuant to O.C.G.A. §13-6-11.

WHEREFORE Plaintiff prays as follows:

- (a) That Plaintiff be awarded statutory damages, actual damages, treble damages, cost and expenses of litigation including reasonable attorneys' fees in an amount to be determined by the enlightened conscience of the trier of fact;
- (b) That Plaintiff have a trial by jury; and
- (c) That Plaintiff be awarded court costs and all other relief as this Court may deem just and proper.

Respectfully Submitted,

THE EVINS LAW FIRM, LLC

/s/ Richard F Evins

Richard F. Evins
GA Bar No. 253360

Counsel for Plaintiff
564 S Talbotton Street
Greenville, GA 30222
Telephone: (770) 592-2780
Email: revins@evinslegal.com

General Civil and Domestic Relations Case Filing Information Form

☒ Superior or ☐ State Court of Cherokee County

For Clerk Use Only

Date Filed 11/6/2023
MM-DD-YYYYCase Number 23CVE2091

Plaintiff(s)

Engel Gary

Last First Middle I. Suffix Prefix

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Defendant(s)

Resurgent Capital Services, L.P.

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Plaintiff's Attorney Richard F. Evins State Bar Number 253360 Self-Represented ☐

Check one case type and one sub-type in the same box (if a sub-type applies):

General Civil Cases

- ☐ Automobile Tort
- ☐ Civil Appeal
- ☐ Contempt/Modification/Other Post-Judgment
- ☐ Contract
- ☐ Garnishment
- ☒ General Tort
- ☐ Habeas Corpus
- ☐ Injunction/Mandamus/Other Writ
- ☐ Landlord/Tenant
- ☐ Medical Malpractice Tort
- ☐ Product Liability Tort
- ☐ Real Property
- ☐ Restraining Petition
- ☐ Other General Civil

Domestic Relations Cases

- ☐ Adoption
- ☐ Contempt
- ☐ Non-payment of child support, medical support, or alimony
- ☐ Dissolution/Divorce/Separate Maintenance/Alimony
- ☐ Family Violence Petition
- ☐ Modification
- ☐ Custody/Parenting Time/Visitation
- ☐ Paternity/Legitimation
- ☐ Support – IV-D
- ☐ Support – Private (non-IV-D)
- ☐ Other Domestic Relations

- ☐ Check if the action is related to another action pending or previously pending in this court involving some or all of the same: parties, subject matter, or factual issues. If so, provide a case number for each.

Case Number

Case Number

- ☒ I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in OCGA § 9-11-7.1.

- ☐ Is a foreign language or sign-language interpreter needed in this case? If so, provide the language(s) required.

Language(s) Required

- ☐ Do you or your client need any disability accommodations? If so, please describe the accommodation request.

General Civil and Domestic Relations Case Filing Instructions

1. Provide the class of court and county in which the case is being filed.
2. Provide the plaintiff's and defendant's names.
3. Provide the plaintiff's attorney's name and State Bar number. If you are representing yourself, provide your own name and check the self-represented box.
4. Provide the primary type of case by checking only *one* appropriate box. Cases can be either general civil or domestic relations and only *one* type of primary case within those categories. Check the case type that most accurately describes the primary case. If applicable, check one sub-type under the primary case type. If you are making more than one type of claim, check the case type that involves the largest amount of damages or the one you consider most important. See below for definitions of each case type.
5. Provide an answer to the four questions by checking the appropriate boxes and/or filling in the appropriate lines.

Case Type Definitions

General Civil Cases

Automobile Tort: Any tort case involving personal injury, property damage, or wrongful death resulting from alleged negligent operation of a motor vehicle.

Civil Appeal: Any case disputing the finding of a limited jurisdiction trial court, department, or administrative agency.

Contempt/Modification/Other Post-Judgment: Any case alleging failure to comply with a previously existing court order, seeking to change the terms of a previously existing court order, or any other post-judgment activity in a general civil case.

Contract: Any case involving a dispute over an agreement between two or more parties.

Garnishment: Any case where, after a monetary judgment, a third party who has money or other property belonging to the defendant is required to turn over such money or property to the court.

General Tort: Any tort case that is not defined or is not attributable to one of the other types of torts listed.

Habeas Corpus: Any case designed to review the legality of the detention or imprisonment of an individual, but not the question of his or her guilt or innocence.

Injunction/Mandamus/Other Writ: Cases involving a written court order directing a specific person to perform or refrain from performing a specific act.

Landlord/Tenant: Any case involving a landlord/tenant dispute if the landlord removed a tenant and his or her property from the premises or placed a lien on the tenant's property to repay a debt.

Medical Malpractice Tort: Any tort case that alleges misconduct or negligence by a person in the medical profession acting in a professional capacity, such as doctors, nurses, physician's assistants, dentists, etc.

Product Liability Tort: Any tort case that alleges an injury to a person was caused by the manufacturer or seller of an article due to a defect in, or the condition of, the article sold or an alleged breach of duty to provide suitable instructions to prevent injury.

Real Property: Any case involving disputes over the ownership, use, boundaries, or value of land.

Restraining Petition: Any petition for a restraining order that does not result from a domestic altercation or is not between parties in a domestic relationship.

Other General Civil: Any case that does not fit into one of the other defined case categories in which a plaintiff is requesting the enforcement or protection of a right or the redress or prevention of a wrong.

Domestic Relations Cases

Adoption: Cases involving a request for the establishment of a new and permanent parent-child relationship between persons not biologically parent and child.

Contempt: Any case alleging failure to comply with a previously existing court order. If the contempt action deals with the non-payment of child support, medical support, or alimony, also check the corresponding sub-type box.

Dissolution/Divorce/Separate Maintenance/Alimony: Any case involving the dissolution of a marriage or the establishment of alimony or separate maintenance.

Family Violence Petition: Any case in which a protective order from a family member or domestic partner is requested.

Modification: Any case seeking to change the terms of a previously existing court order. If the modification deals with custody, parenting time, or visitation, also check the corresponding sub-type box.

Paternity/Legitimation: Cases involving establishment of the identity and/or responsibilities of the father of a minor child or a determination of biological offspring.

Support – IV-D: Cases filed by the Georgia Department of Human Services to request maintenance of a minor child by a person who is required under Title IV-D of the Social Security Act of 1973 (42 USC §§ 651-669b) to provide such maintenance.

Support – Private (non-IV-D): Cases filed to request maintenance of a parent/guardian or a minor child by a person who is required by a law other than Title IV-D of the Social Security Act of 1973 (42 USC §§ 651-669b) to provide such maintenance.

Other Domestic Relations: Domestic relations cases that do not adequately fit into any of the other case types, including name changes.

Please note: This form is for statistical purposes only. It shall have no legal effect in a case. The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or court rules. Information on this form will not be entered into evidence.

IN THE SUPERIOR/STATE COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

GARY ENGEL

CIVIL ACTION 23CVE2091
NUMBER _____

PLAINTIFF

Vs.

RESURGENT CAPITAL SERVICES, L.P.

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

Richard F. Evins, Esq.
The Evins Law Firm, LLC
564 S. Talbotton St.
Greenville, GA 30222

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This 6TH day of NOVEMBER, 2023.

Clerk of Superior Court/State Court

By: 
Deputy Clerk

IN THE SUPERIOR COURT OF CHEROKEE COUNTY

STATE OF GEORGIA

GARY ENGEL

)

)

Plaintiff,

) CIVIL ACTION FILE NO.

)

vs.

) 23CVE2091

)

RESURGENT CAPITAL SERVICES, L.P.

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)

Defendant.

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MOTION FOR APPOINTMENT OF PRIVATE PROCESS SERVER

COMES NOW, the Plaintiff in the above-styled case and files this Motion For Appointment of Private Process Server pursuant to O.C.G.A. 9-11-4(c) and moves this Court for an Order authorizing Stacey Rose to serve the original Summons and Complaint this this matter on the Defendant Resurgent Capital Services, L.P. outside of the State of Georgia. Stacey Rose is a citizen of the United States. Plaintiff further shows the Court that Ms. Rose is over the age of 18, is an uninterested person to this action and is not a convicted felon.

WHEREFORE, Plaintiff respectfully prays that this motion be granted.

This the 20th day of November, 2023.

Respectfully Submitted,

/s/ Richard F Evins

THE EVINS LAW FIRM, LLC
Mailing Address:
564 S. Talbotton Street
Greenville, GA 30222
(770) 592-2780

Richard F. Evins
Attorney for Plaintiff
GA Bar No. 253360

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

GARY ENGEL

Plaintiff,

v.

RESURGENT CAPITAL SERVICES, L.P.

Defendant.

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CIVIL ACTION FILE NO.
23CVE2091

NOTICE OF FILING

COME NOW Plaintiff and files the attached copy of the affidavit of Private Process Server
herewith.

This 20th day of November 2023.

Respectfully submitted,

THE EVINS LAW FIRM, LLC

/s/ Richard F Evins

Richard F. Evins

GA Bar No. 253360

Attorneys for Plaintiff

564 S. Talbotton Street
Greenville, GA 30222
(770) 592-2780 Phone
revins@evinslegal.com

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

GARY ENGEL

Plaintiff,

vs.

RESURGENT CAPITAL SERVICES, L.P.

Defendant.

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Civil Action File No.
23CVE2091

AFFIDAVIT OF PRIVATE PROCESS SERVER

Personally appeared before the undersigned attesting officer, Stacey Rose , and states the following under oath based upon affiant's personal knowledge:

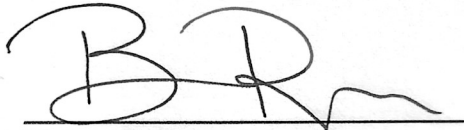
1. I am over the age of 18 years, I am a citizen of the United States and am competent to testify to the facts and circumstances contained within this affidavit.
2. I am not a party or an officer, director, shareholder, or employee of any party, or otherwise employed by or affiliated with any party to the subject lawsuit.
3. I am not the attorney for any party to the subject lawsuit.
4. I have no financial interest in the subject lawsuit or the litigation thereof.
5. I am a wholly disinterested person as relates to the subject lawsuit.
6. I have never been convicted of a felony.
7. This affidavit is made to enable the undersigned to be appointed as a private process server to serve an original of the Summons and Complaint in this action upon the Defendant Resurgent Capital Services, L.P., in the State of South Carolina.
8. This affidavit is two pages long, including the signature page.

FURTHER AFFIANT SAYETH NOT



Stacey Rose
Private Process Server

Sworn and subscribed to before
me this 14 day of November, 2023.



Notary Public



IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

GARY ENGEL)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION FILE NO.
)	23CVE2019
RESURGENT CAPITAL SERVICES, L.P.)	
)	
Defendant.)	

ORDER

The Plaintiff's Motion for Appointment of Private Process Server has been read and considered, and it appearing to the Court that sufficient grounds exist for the granting thereof, it is hereby ORDERED that Stacey Rose, a citizen of the United States, is hereby specially appointed to serve the Defendant name herein with the copy of the Summons and Complaint of this Action, wherever said Defendant may be found.

IT IS SO ORDERED this ____ day of _____, 2023.

 11/21/2023

 Cherokee County Superior Court Judge

Prepared By:
/s/ Richard F Evins

 Richard F. Evins
 The Evins Law Firm, LLC
 564 S. Talbotton Street
 Greenville, GA 30222
 (770) 592-2780
 revins@evinslegal.com

AFFIDAVIT OF SERVICE

Case: 23CVE2019	Court: IN THE SUPERIOR COURT OF CHEROKEE COUNTY STATE OF GEORGIA	County:	Job: 9971633
Plaintiff / Petitioner: GARY ENGEL		Defendant / Respondent: RESURGENT CAPITAL SERVICES, L.P.	
Received by: Grindstone Process Servers		For: The Evins Law Firm, LLC	
To be served upon: RESURGENT CAPITAL SERVICES, L.P.			

I, Stacey Rose, being duly sworn, depose and say I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and inform said person of the contents herein

Recipient Name / Address: RESURGENT CAPITAL SERVICES, L.P., 508 Meeting Street, West Columbia, SC 29169

Manner of Service: Registered Agent, Nov 21, 2023, 4:10 pm EST

Documents: Summons and Complaint, ORDER (filed Nov 21, 2023 at 4:00pm EST)

Additional Comments:

1) Successful Attempt: Nov 21, 2023, 3:40 pm EST at 508 Meeting Street, West Columbia, SC 29169 received by Resurgent Capital Services, L.P c/o Corporation Service Company.

2) Successful Attempt: Nov 21, 2023, 4:10 pm EST at 508 Meeting Street, West Columbia, SC 29169 received by RESURGENT CAPITAL SERVICES, L.P. Ethnicity: African American; Gender: Male; Other: Brittany Ward accepted documents.;

Subscribed and sworn to before me by the affiant who is personally known to me:

Stacey Rose

11/21/23
Date

Tami J. Davis
Notary Public

Grindstone Process Servers
37 Arborland Court
Columbia, SC 29212
8032128831

05-27-2032
Date Commission Expires

TAMI J. DAVIS
Notary Public - State of South Carolina
My Commission Expires May 27, 2032